

REMARKS

The Abstract

The Office Action alleges that the application does not contain an abstract. Applicants respectfully disagree. The papers filed did contain an abstract in the papers related to the PCT application. Nevertheless, applicants resubmit the same abstract on a separate page.

The 35 USC § 112, second paragraph, Rejections

The claims are amended to conform to US claim language practice.

The 35 USC § 102 Rejections

The Office Action alleges that claims 1-4, 7, 16-19, and 21-23 are allegedly anticipated by Wang. Applicants respectfully disagree.

As the Examiner knows, the burden is on the Patent Office to establish that the claims are not patentable over the prior art. That burden has not been met. The Office Action has not established that the claims of the present application are anticipated. Not even an allegation is made that when the catheter is removed, the radioactive substance remains on the site of the lesion, which is an essential feature of the claimed invention. See the clarified claims.

The rejection is improper since there cannot be anticipation until the Patent Office meets its burden.

The 35 USC § 103 Rejections

The Office Action alleges that claims 5, 6, 8-15, 20 and 24-29 are allegedly unpatentable over Wang. Applicants respectfully disagree.

Wang does not teach or suggest the claimed radioactive substances. Nowhere does Wang teach or suggest any of the specifically named substances claimed and also in claims 3-4, 7, 18, 19, 21, 22, 23, which were rejected as allegedly anticipated. Instead, Wang only discusses radioactive adhesives without even mentioning any other possible substances. Thus, the reference does not provide the motivation to one of ordinary skill in the art to use a catheter as claimed with the specifically claimed radioactive substances.

The Office Action cites to *In re Aller*, for the allegation that where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable

ranges by routine experimentation. However, this allegation is irrelevant to the situation here for at least two reasons. 1) Wang does not disclose the specific radioactive materials recited in the claims, and thus, does not disclose the "general conditions" for the claimed subject matter. 2) The claimed invention has nothing to do with the optimization of ranges, instead is directed to the use of specific radioactive material on a catheter. Thus, the holding in *Aller* is not relevant.

There is nothing in the reference which would motivate one of ordinary skill in the art to prepare and use a catheter with the specifically claimed substances.

Reconsideration is respectfully requested.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,



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